August 12, 2019

The Honorable Robert E. Lighthizer
U.S. Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508
Fax: (202) 395-4549

RE: Docket number USTR-2019-0009 – Request to appear at public hearing

Dear Ambassador Lighthizer:

Thank you for the opportunity to testify in response to the Administration's initiation of an investigation with respect to the Government of France's Digital Services Tax (DST).

This letter is to indicate my intention to provide testimony at the hearing to be held August 19, 2019 in connection with the investigation.

Attached please find a written version of my testimony. I will provide an oral summary of this testimony at the August 19 hearing.

Sincerely,

Peter Hiltz
Director, International Tax Policy and Planning
Amazon

Testimony in Response to Office of the U.S. Trade Representative's Initiation of an Investigation into France's Digital Services Tax

Amazon appreciates the opportunity to provide comments as part of USTR's Section 301 investigation into France's Digital Services Tax ("DST"). Amazon has two overarching concerns with the French law.

First, the DST, which is a turnover tax, will negatively affect the hundreds of thousands of small- and medium-size businesses ("SMBs") that use Amazon's services to help reach customers in France.

Second, unilateral digital tax laws, like the French DST, are inconsistent with existing international tax policies and are discriminatory, particularly against U.S.-based multinational companies.

Amazon believes that the international community should instead focus on addressing tax challenges resulting from the digitalization of the economy at the Organization for Economic Cooperation and Development ("OECD"). The OECD is the most appropriate venue for reaching consensus on a new international tax framework that broadly addresses concerns with current international tax rules.

Amazon, Our Customers, and Our Selling Partners

Amazon is a U.S.-based global company that employs over 650,000 employees worldwide, including more than 275,000 full-time employees in the United States and nearly 10,000 full-time employees in France.

Our customers and selling partners are at the heart of every decision we make at Amazon.

We strive to provide our customers with the greatest possible selection, at the most competitive prices, and with maximum convenience. By focusing on the three things that matter most to customers – price, selection, and convenience – we have been able to attract more than 300 million active customers to our 16 online stores across the world.

We have been able to lower prices, increase product availability, and deliver goods faster by opening up Amazon to selling partners. Fifty-eight percent of sales made on Amazon's online stores are now made by our selling partners, most of whom are SMBs.

We work to provide our selling partners with the tools they need to help grow their own businesses. We have made significant investments in infrastructure, transportation, distribution networks, and technologies to help these manufacturers, entrepreneurs, and innovators, do just that.

Third-party gross physical merchandise sales – primarily comprised of SMBs selling on Amazon's online stores – grew to $160 billion in 2018. In 2018 alone, more than 50,000 SMBs exceeded $500,000 in sales in Amazon's online stores worldwide, and nearly 200,000 surpassed $100,000. The number of SMBs eclipsing $1 million in sales in Amazon's online stores worldwide grew by 20 percent in the last year. More than 1 million U.S.-based SMBs and more than 10,000 French-based SMBs are selling on Amazon's online stores.

These businesses are reinvesting in their local communities – creating jobs, supporting local manufacturers and suppliers, and driving exports. The SMBs that sell in our online stores have created 1.6 million jobs worldwide, and that number continues to grow.

The Scope and Discriminatory Nature of France's DST

Given Amazon's focus on our customers and our selling partners, we are concerned with the French government's decision to impose a new three percent tax on the gross revenue from certain types of digital services that target French consumers.

The tax is discriminatory because its in-scope digital services were carefully defined and its revenue thresholds were set high so that it would apply only to a small number of almost entirely non-French companies. The DST applies to businesses whose revenues exceed EUR 750 million worldwide and EUR 25 million in France from in-scope digital services. When combined, the revenue thresholds and covered services bring numerous U.S., but very few French companies within the tax's ambit.

The DST is also particularly harmful because it is a tax on gross revenue and not profit, which will result in double taxation. The DST creates an additional layer of tax on top of already existing corporate income taxes and French VAT. This type of additive tax will lead to the same stream of income being taxed twice, which is inconsistent with international tax principles.

The DST represents an incremental and significant cost to Amazon's consumer business, which operates in the fiercely competitive and very low-margin global retail market. For context, Amazon's consumer business outside of North America operates at a loss. But even loss-making companies must still pay the French DST. Due to the highly competitive nature of Amazon's consumer business, the imposition of the French DST will result in a substantial expense that Amazon cannot absorb if we are to continue making the significant investments in the tools and infrastructure that help fuel our selling partners' success. The DST applies to the marketplace service fees that Amazon charges to our selling partners who sell on amazon.fr. We have in fact already informed our selling partners that certain of their fees will increase by three percent for sales made on Amazon.fr starting on October 1.

As a result, the tax has the potential to impede the efforts of U.S. SMBs to grow and sell into France because it increases their cost of doing business. Selling partners may be forced to choose between increasing their prices, reducing their own costs, or stop selling entirely. The additional tax could result in lost sales, reductions in investment and output, and potentially even job losses among American SMBs.

Our selling partners and their employees, including American SMBs and workers, will be disproportionately harmed because the tax only applies to a very small number of French companies and goods purchased from other online marketplaces, including French online companies, are almost entirely outside of the DST's scope. The DST also discriminates against online stores because it does not apply to physical retail even though customers freely move between both business models.

In sum, U.S. products and services sold through Amazon's online store in France will cost more as a result of the DST, which will undermine U.S. SMBs competitiveness in France.

Amazon's Support for an OECD Solution

The French DST not only hurts SMBs and potentially consumers, but it also undermines the ongoing work of the OECD to address broader concerns with the current international tax framework. Amazon is a strong and engaged supporter of the OECD's efforts to address the tax challenges of a more digitized world and evolving business models, and we believe that an internationally agreed solution at the OECD is achievable.

However, the introduction of unilateral tax measures, such as France's DST, and other similar digital services taxes currently being considered by other countries, harm the chances of reaching consensus. The establishment of unilateral digital tax measures encourages other countries to enact similar

measures, and will likely create a domino effect, leaving businesses with multilayer taxation on the same stream of income. Businesses and governments will have to decipher a complex patchwork of tax measures, which will inhibit international trade and harm the growth of the global economy.

We support the work of the OECD in this area as the one that is most likely to achieve long-term success and because we believe it is in the best interest of governments, the business community, and our selling partners and customers to have a stable and predictable global tax policy that is agreed by all countries. Amazon has engaged in discussions with OECD staff and OECD-member governments to better understand their perspectives and the challenges they are facing. We have shared with them Amazon's views as well as the position of our customers and selling partners, who above all else seek simplicity and certainty.

Amazon encourages the U.S. government and the international community, through the OECD, to continue to focus their efforts on developing global solutions to the tax challenges arising from the digitalization of the economy. We believe that the OECD can achieve a consensus-based solution that addresses concerns with the current international tax framework, is based on sound principles such as avoiding double taxation by taxing profits and not revenue, and is non-discriminatory in application. We are confident that a globally-agreed approach will benefit all countries and support global economic growth and job creation.